IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.201 OF 2007

M/s.Adlabs Films Ltd. & Anr. ..Petitioners.

V/s.

The Union of India & Ors. ..Respondents.

Mr.J.J. Bhatt, senior Advocate with Ms. Jaidev i/b. Khaitan & Jaykar for petitioners.

Mrs.S.V. Bharucha with R.C. Master for respondents.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 22ND FEBRUARY, 2007.

P.C. :-

. Rule, returnable forthwith. The learned counsel for the respondents waive service. By consent of the parties, petition taken up for final hearing.

2. Heard the learned senior counsel for the petitioners and the learned counsel for the respondents. By this petition, the petitioners are seeking to challenge the order dated 21/11/2006 directing the petitioners to make a pre- deposit of Rs.60 lakhs towards duty within a period of 8 weeks.

3. The learned senior counsel brought to our notice that during the earlier period for the same issue there was an order dated 21st July, 2003 with regard to the petitioners wherein the petitioners had

preferred an appeal Nos.E/3247 and 3248/2003-Mum. and applications for stay were made before the Tribunal. The CESTAT by its order dated 21st March, 2001 had waived the condition of pre-deposit. The learned counsel also brought to our notice the order dated 3rd February, 2004 wherein on an application for pre-deposit of Rs.1,47,63,582/-, the Tribunal has granted unconditional waiver of pre- deposit of duties and penalties, relying upon the orders passed in the M/s.Associated Films Industries.

4. The learned counsel for the petitioners brought to our notice that when the impugned order was being passed, the aforesaid orders were brought to the notice of CESTAT but the same were not considered by the CESTAT.

5. In the aforesaid facts and circumstances of the case, we quash and set aside the order dated 21st November, 2006 and remand back the matter to the CESTAT to decide the issue of waiver of pre-deposit afresh after taking into account the aforesaid orders and pass an appropriate order in accordance with law.

6. Rule is made absolute in above terms.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)